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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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House Week in Review

With the House having completed work on the appropriations bill on March 25, attention this past week shifted to other issues. On Tuesday, the House debated H. 3643, a resolution urging Congress to refrain from any development of the Savannah River Plant as a temporary storage facility for spent commercial nuclear fuel rods from other states. Proponents of the resolution expressed concern that the state increasingly is becoming a dumping ground for other states' waste. Two House members spoke against the resolution, with one stating that use of the site as a storage facility would bring many dollars to the state's coffers, and another member claiming that passage of the resolution would hurt chances of saving the Charleston Naval Facilities from closure (as nuclear submarines refuel at the facilities and their fuel waste is disposed at the Savannah River site). A move to table the resolution was soundly defeated, and the House finally voted 68-36 to adopt the resolution.

On Wednesday the House debated H. 3147, which would change the state primary date from June to the first Tuesday after the first Monday in August. (The bill as originally introduced called for changing the primary date to the 4th Tuesday in August but was amended by the Judiciary Committee.) Proponents, led by Judiciary Committee Chairman James Hodges, claimed that the new date would lead to shorter and less expensive campaigns and generate greater voter interest and turnout. Opponents claimed that the June primary date has worked well enough in the past and expressed concern that primary turnout would be low in August, with many people vacationing at that time of year. A move to table the bill was rejected by a vote of 22-88, and shortly thereafter the House voted 86-23 in favor of the bill.

On Thursday, the House voted 94-12 to approve H. 3058, a joint resolution which seeks to amend the Constitution so as to change the starting date of the General Assembly's annual session from the second Tuesday in January to the second Tuesday in February only in odd-numbered years. In years when the General Assembly convenes in February, committees would be allowed to meet for the month following the second Tuesday in January. If the Senate also approves this joint resolution, it

would be submitted as a constitutional amendment to this state's voters for approval in the November 1994 general election.

A bill governing the licensing and regulation of video poker machines which passed the Senate on March 25, S. 208, was introduced in the House on Tuesday. This bill would allow counties the option of prohibiting video poker machines within their jurisdictions. The bill has been referred to the House Judiciary Committee. Among other bills approved by the House last week were H. 3370, which lists conditions under which a person would be guilty of petit larceny for failing to return a rented video or cassette tape, and H. 3607, which allows reserve police officers to wear their uniforms and carry their weapons while performing private jobs during off-duty hours.

Legislative Update, April 6, 1993

Bills Introduced

The following bills were introduced in the House of Representatives the week of March 30---April 1. Not all bills introduced in the House are featured here. The bills are arranged according to the committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Archery Hunting License (H. 3789, Rep. Koon). This bill requires a person to obtain a state archery license before he may use archery equipment to hunt game. The person would be required to have this license in his possession while using archery equipment to hunt game, and this license would be in addition to any other hunting licenses or permits required. The State Wildlife and Marine Resources Department would furnish the license to authorized agents for sale in the same manner as other types of licenses.

The license fee would be \$8.00, with \$1.00 retained by the issuing agent and \$7.00 forwarded to the Department. The license would expire the last day of June following issuance. A person violating these provisions, upon conviction, would be fined between \$100 and \$200 or jailed not more than 30 days.

Watercraft Equipment, Operation and Titling (H. 3793, Rep. Snow). This bill revises current laws governing the operation and titling of watercraft. The Department of Wildlife and Marine Resources would be authorized to issue temporary certificates of number to permit the use of watercraft while applications for certificates of number are being processed. The bill lists provisions governing the validity and duration of these certificates. Also listed are conditions under which a marine dealer permit is invalid. The bill also revises and adds definitions pertaining to state laws governing watercraft equipment and operation so as to add, among other terms, definitions for "temporary certificates of number" and "marine dealer." Anyone violating state law or regulations governing watercraft equipment or operation for which a penalty is not specified would be subject, upon conviction, to a fine of not less than \$25 nor more than \$200, as opposed currently to a fine not exceeding \$100. Watercraft with a temporary certificate of number would be exempt from the state's law governing numbering of vessels.

The Department also would be allowed to issue a certificate of number for demonstration and testing purposes to a permitted marine dealer or marine manufacturer and could also issue a certificate of number to a person engaged primarily in the business of repairing watercraft or outboard motors. The bill lists provisions pertaining

to the validity and duration of certificates issued to the dealer, manufacturer or repairer.

A person who purchases a watercraft transferred from another person would have to file an application for a certificate of transfer within 30 days, instead of the current requirement of 20 days, from the date of purchase. The purchaser could operate the watercraft for not more than 60 days on a temporary certificate of number. Provisions requiring a transfer charge would not apply to watercraft owned by volunteer rescue squads if used exclusively for the purposes of the squads. The bill also requires the watercraft owner to notify the Department in writing within 10 days if a registered watercraft is abandoned, junked, destroyed or used in the manufacturing or remanufacturing of another watercraft. References to the Division of Boating are changed so as to mean the Department of Wildlife and Marine Resources.

The bill revises and adds definitions pertaining to state law governing the titling of watercraft and requires every owner of a watercraft or outboard motor which is required to be titled to apply to the Department, instead of the Division of Boating, for the certificate. Application to the Department would be required within 30 days of the purchase date, and the purchaser also would submit his social security number on the application. The bill lists conditions under which marine dealers with permits would not be required to obtain titles for new vessels and outboard motors held in their inventory for sale and also changes references pertaining to "division" so as to mean the Department. The penalty for submitting a late title application would rise from \$10 to \$15.

The bill also lists requirements for placement of hull identification numbers for watercraft and conditions under which the numbers may be altered or removed. In addition to current law prohibiting operation of a watercraft or outboard motor whose title has been canceled or for which a title has not been issued, it also would not be allowable for a person to be in possession of a watercraft or outboard motor under these conditions. A provision pertaining to use of false information to apply for a title or in a bill of sale or sworn statement of ownership is deleted, and a provision is added which would prohibit possession, sale or purchase of a watercraft or outboard motor whose hull identification number has been destroyed or otherwise altered. The removal, defacement or alteration of a hull identification number also would be prohibited.

The bill provides a procedure for notifying the owner of a watercraft, outboard motor or related marine equipment which has been seized by the Department and permits forfeiture if the owner fails within a specified time to retrieve the vessel. Current law is amended so as to state that a person making a false statement in an application or affidavit for a document submitted to the Department is guilty of a misdemeanor, and upon conviction the person would be fined at least \$50, instead of \$100, if not jailed. A dealer violating state laws governing watercraft titling would be guilty of a misdemeanor and upon conviction subject to penalties as provided in the bill. Finally, a person submitting a fraudulent

check to the Department for fees or who is convicted of violating watercraft titling laws would be denied future dealer permits or certificates of number by the Department.

Environmental Equity (H. 3824, Rep. Canty). This bill is designed to educate people about areas subject to high concentrations of toxic materials, curtail activities found to have a very adverse effect on health in areas of highest impact, and ensure that significant adverse health impacts which might be associated with toxic chemical environmental pollution are not distributed in an inequitable or discriminatory manner. The Department of Health and Environmental Control would promulgate in regulation a list of tracts in rank order of the toxicity of chemicals in each tract during the most recent 5 years data is available. The bill provides for adjustment of this data and states that the 100 tracts with the highest chemical toxicity are designated high risk areas. The Department would review the list every 2 years and make any necessary adjustments. Regulations also would contain methods by which the toxicity calculations are to be computed. The Department also would establish in regulation toxic chemical user fees, which would be assessed against toxic facilities in high-risk areas in the State. The bill provides for remittance of the funds and states that interest from the fund would be used to establish a grant program under which technical assistance grants would be awarded. These grants would enable individuals, citizens' groups and governmental agencies in high risk areas to obtain an independent study of the impact of a toxic chemical facility in the area, so as to facilitate public awareness and participation in development of regulations governing these facilities.

The Department's Office of Minority Health would submit an annual report to the General Assembly on the nature and extent, if any, of acute and chronic impacts on human health in environmental high risk areas compared with other tracts in the state. These impacts would include but not be limited to cancer, birth deformities, infant mortality rates and respiratory diseases. The bill lists information which must be compiled in the report. If the report identifies significant adverse effects of toxic chemical environmental pollution on human health in high risk areas as a group, the Department within 6 months of submission of the report must submit to the General Assembly legislative recommendations to remedy and prevent the impacts. The bill lists what must be included in the recommendations and also states that if the report identifies significant adverse effects of toxic chemical environmental pollution on human health in a high risk area, a moratorium must be imposed on siting or permitting a new facility in the area. The moratorium would continue until the Department determines that a significant reduction in levels of the chemicals has been attained in the area.

The bill also would require a person applying for a permit for the siting of a toxic chemical facility to submit a facility site demographics description to the Department. The bill lists data

which must be included in the description and states that in determining whether to approve the siting, the Department must consider the demographics contained in the description. The Department would not be allowed to approve the siting if it does not conform with the purposes and requirements of these provisions. The description also must be made available to the public.

Fishing License Requirements (S. 512, Sen. G. Smith). Under this bill, resident and non-resident patrons of pay lake operators or pay-to-fish commercial businesses would not be required to purchase an individual annual license, provided that the establishment has purchased an annual license. The annual fee for a pay lake license would be \$200.

Education and Public Works

Listing of Emergency Contacts on Drivers' Licenses (H. 3832, Rep. J. Bailey). This bill would require anyone applying for or renewing a driver's license to provide the name, address and phone number of a person to be contacted in case of an emergency. This information would then be posted on the license.

Instruction Required of Certain 3rd Grade Students (H. 3836, Rep. Moody-Lawrence). This bill would require 3rd grade students whose results on standardized tests taken during the 3rd grade year indicate the student is 6 or more months behind the nationwide norm to be given and successfully complete a program of intensive reading instruction. Successful completion of the program would be a prerequisite for the student's promotion to the 4th grade. This reading instruction would be separate from any other available remedial programs. The bill lists the times when this instruction may be given and requires the State Department of Education to specify the content of the program. These provisions would not apply to students with documented learning disabilities in reading.

Visits by State Departments to At-Risk Students (H. 3837, Rep. Moody-Lawrence). This bill would require representatives of the Departments of Youth Services, Mental Health and Health to visit during one full day each month of the school year state secondary schools which serve a high-risk student population. In conducting these visits, representatives of each Department would provide services and consultations in each department's particular areas to interested students. As pertains to these visits, the State Department of Education would determine state secondary schools which serve a high-risk student population.

Attendance in Public Schools Based on Academic Progress (H. 3838, Rep. Moody-Lawrence). This bill require allow students to attend classes from kindergarten through grade 3 based not on age but rather on academic progress attained in various subjects and courses. This progress would be measured through periodic testing

and evaluation. The State Board of Education would provide for the implementation of these provisions through regulations and directives.

Additional Lighting Equipment for Pole Trucks and Trailers (H. 3839, Rep. Moody-Lawrence). This bill requires every pole truck or trailer to be equipped with a strip of light reflecting paint, tape or reflectors. The device must be located on at least 1 side of the external sides of the pole support frame or bolsters.

Early Intervention Programs for Preschool-Age Children With Disabilities (H. 3841, Rep. J. Wilder). The State Board of Education and State Department of Education would develop a comprehensive system of special education and related services for preschool children, ages 3-5, with disabilities. In developing the system, requirements of the Federal Individuals with Disabilities Education Act are to be carried out. Other state agencies, as listed in the bill, which provide services for children with disabilities would be directed to cooperate in establishment and support of the system. All public education programs for children with disabilities within South Carolina would be under the general supervision of persons responsible for education programs for children with disabilities in the State Department of Education. These programs also must meet the standards of the State Board of Education.

The bill provides for expansion of the State Advisory Council and states that the Council would advise the Department of Education and the State Board of Education in developing this comprehensive system for preschool children with disabilities. The bill lists the assistance the Council is to provide in developing the system. The State Board of Education, with input from the Advisory Council, would establish policies, standards and procedures necessary to ensure that a free and appropriate education is available in the least restrictive environment and that a smooth transition from early intervention programs or initial entry into preschool programs occurs for children with disabilities. The board of trustees of each school district would provide education programming for all preschool children with disabilities residing within the district.

A special education program would be available to any preschool child with disabilities beginning on their 3rd birthday, provided the child meets placement criteria developed by the State Department of Education. The bill provides for evaluation of children for placement purposes under these provisions. On an annual basis, the Advisory Council would submit a report to various legislative committees and the Interagency Coordinating Council on P.L. 99-457 (federal law addressing public education for the handicapped) summarizing services provided for preschool children with disabilities and their families. The bill lists information which must be included in the report. The Committee to Study Formula Funding for Educational Programs would conduct a study of the costs of this program for preschool children with disabilities.

If appropriate, the Committee would recommend weights to be included in the Education Finance Act and report to the General Assembly by November 1, 1993. Until weightings for preschool children are developed and funded, all children age 4 with hearing or visual disabilities and all children age 5 with disabilities would continue to be counted for funding purposes under the Education Finance Act. Funding for other preschool students with disabilities would be provided for in the General Appropriations Act.

The bill also requires the State Board of Education to establish a "due process" provision, as required in accordance with the federal Individual Disabilities Education Act (Public Law 94-142). This "due process" provision pertains to parental rights concerning placement of disabled children in special programs and classes.

Registration and Licensing of Corporate-Owned Motor Vehicles

(H. 3845, Rep. Phillips). This bill would allow a corporation or other legal entity to register its fleet of motor vehicles. This could be done in a manner so that the registration of the fleet expires in the same month instead of on a staggered basis. The bill defines "fleet" and provides that the Department of Highways and Public Transportation must approve the month of expiration of the registration. The Department also could issue special license plates and registration cards for fleet motor vehicles upon application to the Department. The bill lists information which must be included on the application and requires a \$100 filing fee for the application. Upon approval of the application for fleet registration, a fleet registration card and license plate would be issued for each of the qualified vehicles in the fleet. The card must be in the vehicle at all times and made available when requested by a law enforcement officer, and the license would be displayed as prescribed by the Department.

The bill lists fees for vehicles registered as part of a fleet under these provisions and permits prorating of fees for vehicles added to the fleet during the registration year. Upon renewal of fleet registration, the Department would require payment of full licensing fees for every vehicle registered in the preceding year unless the vehicle has been deleted from the fleet. A vehicle could be deleted from the fleet upon surrender of the vehicle's fleet registration card and fleet license plate.

Return to Employment by Retired Teachers

(H. 3840, Rep. Kennedy). This bill would allow a person who was employed and certified as in teacher in the state's public schools at the time of his retirement under the State Retirement System to return to covered employment in any school in the state where he was qualified for employment at the time of retirement. The retired teacher could return to employment in the school whether or not his teaching certificate has been renewed. Compensation paid to the person would be commensurate with his years of experience and

salary level but could not exceed the total amount permitted to be paid to a retiree without incurring a forfeiture of benefits.

Accuracy of School Textbooks (S. 127, Sen. Rose). This bill would prohibit the State Board of Education from approving for adoption a textbook or other instructional material which contains any clear and substantive factual or grammatical errors. Any contract between the Board and a publisher or vendor of instructional material must require that the material is free of these errors, and if an error is found the Board would require reasonable remedies. The bill also provides for composition of evaluation and rating committees as pertains to adoption of instructional material and states that in addition to monitoring the factual and grammatical correctness of the materials, the committees also, where applicable, are to include in their evaluating and rating criteria satisfaction of state mandates for graduation criteria and support for the benefits of the American economic and political system.

Additionally, the bill would require that before final adoption of instructional material, the State Board would allow the materials to be available for public inspection for not less than 30 days at display centers throughout the state. These centers would be designated by the State Superintendent of Education. The State Board also would be required to hold a public hearing before adopting any instructional material for use in the State's schools.

Prohibition Against Hazing at State Institutions of Higher Learning (S. 130, Sen. Rose). This bill prohibits hazing at all state-supported colleges, universities and institutions of higher learning and permits the president of the educational institution to dismiss, expel, suspend or punish, as he considers appropriate, the student who has committed an act or acts of hazing. The bill defines hazing as pertains to state institutions of higher learning and states that these provisions are supplemental to current state law prohibiting hazing by fraternities and sororities. Additionally, provisions exempting from public disclosure under the Freedom of Information Act information pertaining to the hazing victim or to a hearing by a public body regarding disciplinary action against a person accused of hazing would continue to apply.

Higher Speed Limits for School Buses (S. 328, Sen. Washington). Current state law prohibits a school bus from traveling faster than 35 MPH except when traveling to and from special events which necessitate travel on interstate or primary state highways. This bill would raise the maximum speed limit except under circumstances as listed above to 45 MPH and states that this new limit also would not apply when a bus travels on a highway with a maximum speed limit above 55 MPH.

Judiciary

Eminent Domain Procedure (H. 3785, Rep. Baxley). This bill states that under the State's Eminent Domain Procedure Act, the condemnor has the burden of proof to demonstrate that the condemnation of property is reasonable and for the public purpose to be served. The bill also states that in an appeal regarding the appraisal of condemned land by the appraisal panel, the burden of proof also rests with the condemnor.

Increased Penalties for Unlawful Alteration of a Driver's License (H. 3786, Rep. Simrill). This bill changes the fines which may be imposed for altering a drivers' license, selling or issuing a fictitious license, using a license or identification card issued in another's name, an altered license, or a false identification card. The applicable fine for altering a drivers' license or selling or issuing a fictitious license would range from \$1,000 to \$3,000, as currently opposed to not more than \$2,500. The fine which could be imposed for using a license or identification card issued in another's name, an altered license, or a false identification card would range from \$250 to \$1,000, instead of the current maximum fine of \$100.

Child Support Guidelines (H. 3791, Rep. Shissias). This bill states that application of child support guidelines in and of itself is considered a change of circumstances for the modification of the existing child support order. Currently application of these guidelines is not considered a change of circumstances with regard to modification of the order.

Child Support Payments (H. 3792, Rep. Shissias). This bill would authorize the Department of Social Services to pursue state and federal tax refund offsets for the purpose of obtaining delinquent child support payments. This would be permitted even if the obligor is making periodic payments as required by court order to satisfy the delinquency or even if the delinquent amount has been placed in abeyance by court order.

Abolishment of Public Works Commissions (H. 3800, Rep. Spearman). This bill would amend current state law governing the abolishment of public works commissions. Currently a public works commission may only be abolished if the commissioners unanimously petition the municipal council for its abolishment and the municipal council adopts an ordinance providing for its abolishment. Under this bill there would be 2 methods to abolish these commissions:

(1) A majority of the commission's members could vote to abolish the commission and transfer the rights, duties, responsibilities, assets and liabilities of the commission to a municipality. The transfer then would be effective when the municipality adopts an ordinance accepting the transfer; or

(2) A municipal council could hold a referendum to abolish

the public works commission. A referendum would be held upon the council's receipt of a petition signed by 15 percent of the municipality's registered voters calling for the commission's abolishment. If those voting in the referendum opt for abolishing the commission, the municipal council would then adopt an ordinance abolishing the commission and assume the rights, duties, responsibilities, assets and liabilities of the former commission. Abolishment of the commission and transfer of its rights, duties, responsibilities, assets and liabilities would be effective upon final passage of the council's ordinance. A referendum to abolish a public works commission, whether successful or unsuccessful, could not be conducted more often than every 36 months.

Appeals From Magistrates' and Municipal Courts (H. 3802, Rep. Hodges). This bill states that appeals of sentences or judgments of magistrates' and municipal courts must be heard by the Court of Common Pleas, as currently opposed to the Court of General Sessions.

Assignment of Child Support to Department of Social Services (H. 3805, Rep. Shissias). This bill states that a clerk of court would recognize assignment of rights to child support to the Department of Social Services upon notice from the Department, without requirement of a court order to this effect.

Local Restrictions on Hours of Sale of Beer, Wine and Alcoholic Beverages (H. 3806, Rep. Gonzales). This bill would grant to all counties and municipalities the authority to prohibit the sale of beer, wine and alcoholic beverages for on-premises consumption between 2 AM and 8 AM. The bill also states that existing ordinances which restrict these sales between 2 AM and 8 AM are confirmed and ratified.

Notification of Victim Upon Release of Defendant from State Hospital (H. 3810, Rep. Rudnick). This bill states that if officials of the State Hospital determine that a person committed to the hospital for a crime for which he was adjudicated "guilty but mentally ill" is no longer in need of hospitalization, then the officials are to notify the victim or the victim's attorney.

Election and Appointment Districts for Selection of Members of State Boards and Commissions (H. 3814, Rep. Harrelson). Under this bill, all members of state boards and commissions holding office on July 1, 1993 would cease to be members as of that date. The bill establishes 4 districts in the state, each roughly equal in population (about 870,000 each), for the purpose of selecting members to state boards and commissions, whether the members are appointed by the governor or elected by the General Assembly. Each county would be in a district, though 2 counties---Aiken and Laurens---would be split between 2 districts. The bill proposes that most boards or commissions consist of either 8 or 12 members, with the bill listing boards and commissions which would have 8

members and those which would have 12. Membership on these boards and commissions would be evenly apportioned among these 4 districts. The bill lists requirements governing the selection of members from these districts and lists boards and commissions which would have a different size than those mentioned above..

Transport of Persons Confined to Mental Health or Retardation Facilities (H. 3823, Rep. Canty). This bill would prohibit a state or local law enforcement officer from transporting anyone confined to a mental health or mental retardation facility unless the person is charged with or has been convicted of a crime. The prohibition also would not apply if the patient is absent without authorization from a facility or is admitted to the facility as result of an emergency admission.

Video Poker Licensing and Regulation (S. 208, Sen. Hayes). This bill would allow counties, by referendum, to decide whether video poker machines should be allowed or prohibited within their jurisdiction. A referendum could be called upon passage of an ordinance by the county's governing body or upon presentation to the county election commission of a petition signed by at least 10 percent, but not more than 2,500, of those county residents registered to vote at the last general election. Referendums on video poker machines could only be held at the time of the general election. A county which votes to allow the machines could later vote to ban the machines, while a county prohibiting the machines could later vote to allow the machines.

Revenues from a machine license issued after June 1, 1995 would be remitted to the county where the machine is licensed and divided among school districts in the county as provided in the bill. A one-time, nonrefundable fee of \$500 would be imposed on each machine license issue between July 1, 1993 and June 30, 1994. This fee would be used to purchase metering devices for these machines so that they could be monitored by the State Tax Commission.

The bill places limits on the number of machines which may be maintained at an establishment and places restrictions on hours the machines can be operated, the age a person must be to play the machine. A person must meet a residency requirement before he can be issued a permit to operate a machine. Penalties are provided for persons failing to meet these licensing requirements. The bill also lists requirements for placement of the machines and their licenses in establishments and penalties for not meeting these requirements. The bill also limits the cash payout for credits earned for free games from video poker to 2,500 credits per player per location during a 24-hour period, with the cash value of each free game limited to 5 cents. The bill lists restrictions on the placement of machines in establishments which provide payoffs if these establishments are within certain distances of schools, churches or parks. Penalties are provided for persons making payoffs at establishments near schools, churches and parks.

A statewide referendum would be held in November of 1994 to decide whether cash payoffs from video poker machines should remain legal and subject to licensure and regulation.

Labor, Commerce and Industry

State Housing Finance and Development Authority (H. 3784, Rep. Cobb-Hunter). This bill provides that when commissioners are appointed to the State Housing Finance and Development Authority, a commissioner must be appointed from each of the state's 6 congressional districts and 1 commissioner must be an at-large appointment. Additionally, commissioners must include representatives of mortgage and housing finance industry, home construction, lower socio-economic housing programs, and consumers. In making appointments, the governor is urged to consider race, gender and other demographic factors so as to ensure the broadest representation possible on the authority. The Authority also must emphasize the development of lower socio-economic housing, including housing for the homeless.

Information Required of Anyone Leasing or Renting Land for a Manufactured or Mobile Home and Ejectment of Tenants (H. 3807, Rep. Stille). This bill would require a tenant who leases or rents land on which to place a manufactured or mobile home to furnish to the landlord or landowner information concerning the home. This information must be on a form which includes the name and address of the landlord or landowner and must also include (1) the date and place where the manufactured or mobile home was purchased; (2) the name, address and telephone number of all lienholders; and (3) the previous location, if known, of the manufactured or mobile home. The tenant must swear and notarize that to the best of his knowledge the information is accurate and complete. A copy of the form containing this information would be provided to the manufactured or mobile home owner, who in turn would provide it to all lienholders. Any subsequent change in the lienholder or any additional lienholders would require the new lienholder to notify the landlord or landowner about this change.

The bill also lists grounds for and provides procedure for ejectment of a tenant from a manufactured or mobile home. Upon receiving a request from a landowner or landlord to eject the tenant, the magistrate would send a ruling to the tenant requiring him to vacate the premises or giving the tenant 20 days to show cause why he should not vacate the home. If the tenant fails to show cause within 20 days, the magistrate would issue a warrant of ejectment, with the constable or sheriff carrying out the warrant and ensuring that the home is removed from the premises.

Audits of Insurers (H. 3811, Rep. Rudnick). This bill allows the Chief Insurance Commissioner to conduct or have conducted at any time an audit of any insurer doing business in South Carolina, when the commissioner considers an audit necessary.

Registration of Trade Marks and Service Marks (H. 3812, Rep. T.C. Alexander). This bill amends current state law governing the registration of a mark (trademark or service mark) with the Secretary of State's office so as to create the "Trademark and Service Marks Act of 1993." The intent of this bill is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection. The bill defines "mark" and lists conditions under which either of these marks may not be registered. A person seeking to register a mark would file an application with the Secretary of State. The bill lists information which must be included in the application and which the Secretary may require to be listed on the application. If the Secretary refuses to register a mark, he must notify the applicant why registration was refused. The applicant would be allowed to amend the application and have it re-examined, but if upon re-examination the Secretary still refuses to register the mark, the applicant could appeal to the Circuit Court in Richland County. If the Secretary approves the application, a certificate of registration would be issued to the applicant, under the signature of the Secretary and the seal of the State. The bill lists information which would be contained in the certificate, and the certificate or a copy of one as certified by the Secretary would be admissible in evidence as proof of the registration of the mark in an action or judicial proceeding of this State. Registration of a mark would be effective for 5 years and could be renewed for successive periods of 5 years. A mark also would be assignable, under conditions as listed in the bill, and the Secretary would keep for public examination a record of all marks registered and renewed and documents recorded with the mark.

The bill lists conditions under which the Secretary may cancel registration of a mark and also lists classes of goods and services for registration of marks. If an application for a mark includes goods and services which fall within multiple classes, the Secretary could require payment of a fee for each class. If anyone procures for himself or on behalf of another person the filing or registration of a mark in the Secretary's office under these provisions by knowingly making a false or fraudulent representation of declaration, then the person seeking procurement would be liable to pay all damages sustained in consequence of the filing or registration to be recovered in court by or on behalf of the party injured. Anyone who uses a mark under conditions as listed in the bill without the registrant's consent would be liable in a civil action. The owner of a mark which is famous in South Carolina would be entitled to an injunction and other relief against another's use of the mark, if use commences after the registrant's mark becomes famous and use causes dilution of the distinctive quality of the registrant's mark. The bill lists factors which a court may consider in determining if a mark is famous and damages which may be awarded to a registrant whose mark has been unlawfully used for another person.

Changes to Insulation Standards (H. 3822, Rep. Waites). This bill deletes provisions for minimum insulation levels as pertains to the State's Building Energy Efficiency Standard Act and provides that under this act determination of minimum thermal resistance ratings applies only to insulation.

Auto Insurance Reform (H. 3831, Rep. Richardson). This bill is designed to encourage reasonable competition in the auto insurance market, so as to provide rates that are responsive to competitive market conditions. In order to encourage competitive rates, insurance companies would be allowed to use their own rates and classification plans, and affiliate companies also would be allowed to use their own rates and classification plans. The bill deletes a provision that rates or premium charges proposed for use by auto insurers must first be approved by the Commissioner of Insurance but states that every final rate or premium charge must be adequate and not unfairly discriminatory. In considering a rate filing or reviewing a rate in effect for auto insurance, the commissioner would review the rate experience and make a determination whether the rates or premiums meet requirements of these provisions, in accordance with accepted and reasonable actuarial techniques. The bill lists actuarial factors which must be considered.

The bill would require the commissioner to provide, at the request of the Consumer Advocate, a copy of any rate filed with the commissioner along with any supporting materials used to support the filed rate. The bill lists procedure by which the consumer advocate may request review of a filed rate which does not conform to law governing these rates, but the consumer advocate would not be allowed an opportunity for a hearing on any rate filed for use by the Reinsurance Facility. Insurers filing rates with the commissioner must do so no later than 15 days after the effective date of the rate, and no auto insurance credit or discount plan could be used unless the criteria used for classifying risks are objective, unequivocal and based on statistically supported data or probable variation in losses or expenses.

By January 1, 1994 and annually thereafter, the Board of Governors of the Reinsurance Facility would file with the commissioner every manual of classifications, rules and rates; every rating plan, policy forms and every modification of the preceding information which the facility proposes to use for private passenger auto insurance provided by the facility. Rates filed by the board would be effective on the following July 1. Any filing made by the Board would be approved by the commissioner unless he finds the filing does not meet current provisions. The bill lists action the commissioner must take when disapproving a filing or when he finds that he filing he has approved no longer meets provisions governing auto insurance. The bill lists procedure for establishment of facility rates through 1998 and requires that by that year the rates must be established at a level so that the sum of the pure loss component and expense component provide for a reasonable rate of return. The bill also lists the maximum coverages, limits and deductibles for which the Board must provide

rates and rules.

The bill deletes certain provisions governing conditions under which insurers must provide insurance but states that no insurer may refuse to write a policy, coverage or endorsement of auto insurance solely because of the race, color, creed, national origin or ancestry of anyone seeking to be insured. The bill lists conditions under which an insurer's cancellation of an auto insurance policy would be effective. Provisions requiring auto insurers to underwrite certain coverages (e.g., fire, theft) if requested by the insured are deleted, and the bill states it would be an unfair trade practice for an insurer or agent to sell coverage unless the insured is notified of savings which may be realized if the applicant or insured selects a higher deductible.

The bill lists conditions under which an insurer may cede a policy to the Facility and states that policies ceded to the Facility prior to July 1, 1993 would be terminated but then offered coverage in the Facility on the first policy renewal date after July 1, 1994. Any designated producer, upon notification to the Facility's board, would be allowed to contract with the voluntary market outlet for any type of auto insurance cedeable to the facility. The bill also states that when determining the recoupment charge, it is to be added to the premium rate, as opposed to the base or objective standards rate, of risks with surcharge points.

The commissioner also would be allowed through order to fix, establish and promulgate a fair and reasonable Merit Rating Plan for auto insurance risks and would be required to at least bi-annually review the Merit Rating Plan for auto insurance (Regulation 69-13.1) and issue a report to the General Assembly stating the commissioner's conclusion that the regulation complies with classifications as established by the State Rating and Statistical Division. The bill lists information which must be contained in the review.

Physical Fitness Service Contracts (H. 3835, Rep. Fair). This bill amends state law so as to provide that every prepaid or credit contract for physical fitness services of over 3 months' duration, instead of 1 months' duration, or over \$50 a month in amount as opposed to over \$50 in amount, must conform to credit contract requirements under the State's Physical Fitness Services Act. A physical fitness services center would be allowed to deduct a reasonable fee from payments being returned to a person who has canceled a credit contract with the center if that person has used the center's facilities or services. Current law governing physical fitness services contracts would be amended so as to require that services which are not subject to being refunded because of cancellation must be clearly stated in the contract and to state that contracts would not be required for personal training, private consultations and fitness testing rendered on an hourly basis unless they are part of a package exceeding \$300. The bill also lists requirements pertaining to the display of a center's Certificate of Authority and requires that the number of complaints filed against the facility with the Department of Consumer Affairs

since the facility opened and during the previous year be posted on the certificate or on a accompanying verified document prepared by the Department of Consumer Affairs.

Sales and Refills of Prescriptions (S. 170, Sen. Giese). This bill would require a prescription for dispersement of devices, except for contact lenses, as defined under the South Carolina Drug Act. Provisions which limit the dispersement of prescription drugs and devices would not apply to drugs or devices which optometrists and opticians are permitted to administer under state law. The bill also allows a pharmacist to dispense a one-time emergency refill of a prescription and lists conditions which must be met in dispensing an emergency refill. Nothing in these provisions, however, would abridge the right of a physician to refuse to fill or refill a prescription.

Medical, Military, Public and Municipal Affairs

Fingerprint Reviews of Persons Seeking Licensure as a Foster Parent (H. 3820, Rep. Shissias). This bill would require anyone applying for licensure as a foster parent to undergo fingerprint reviews so as to determine if the applicant has a criminal background. Two (2) reviews would be conducted---one by the State Law Enforcement Division and one by the Federal Bureau of Investigation. Any fee charged by the FBI for its review would be paid by the individual. These reviews also would be required of anyone 18 or older residing at the home of the person seeking to be licensed as a foster parent. No person could be licensed as a foster parent until the fingerprint reviews are conducted and the results are submitted to the Department of Social Services.

Ways and Means

Priorities for Multiple Setoff Claims to Tax Refunds (H. 3804, Rep. Shissias). This bill changes the order of priority for settlement of claims to refunds which may be setoff by the Tax Commission, so that claims of the Commission have first priority, followed by claims of the Division of Child Support Enforcement of the State Department of Social Services. The bill lists the priorities for other claims made for these refunds. Priority within a class in which multiple claims are filed would be the order in time in which the claimant agency filed the written notice with the commission to obtain collection through the setoff.

Special District Sales and Use Tax (H. 3818, Rep. Kelley). This bill would allow any contiguous part of a county, including a municipality, to be constituted a sales and use tax district, provided, however, that the local sales and use tax has not been imposed on the entire county. A proposed district would not be allowed to cross precinct or municipal county lines, and a

referendum on establishment of a district would be held after receipt by the county election commission of a petition signed by at least 5 percent of registered voters residing in the proposed district. The bill lists requirements as to when the election is to be conducted, public notice of the referendum, and certification of the results of the referendum. If the referendum passes, the tax would be imposed on the district on the first day of the 6th months following the Tax Commission's receipt of the certified favorable referendum result, but if the referendum is not approved, it may not be held in any part of the proposed district for at least 1 year.

Revenue resulting from the tax, after deducting the amount of refunds and the cost to the Tax Commission of administering the tax (not to exceed 1/2 of 1 percent), would be credited to 2 separate funds in the State Treasury---a Property Tax Credit Fund and a Nonrecurring Expense Fund. The bill provides lists the percentages of revenues which would be allotted to each fund and provides a formula for distribution of these funds to the county within that district and any municipalities within the district.

The bill states that revenue from the property tax credit fund must be used to provide credits against ad valorem municipal and county property taxes of taxpayers in the district. The bill lists the purposes for which revenues from the nonrecurring expense fund may be used by the district, which include, as examples, traffic control, wetlands preservation and water and sewer projects. Revenues from the nonrecurring expense fund, however, could not be used to pay salaries for full-time or part-time public employees but could be used to contract for services of private sector employees.

The sales and use tax district, and the tax levied on the district, would cease to exist upon imposition of a sales and use tax on the entire county.

Limits on Bonded Indebtedness of School Districts (H. 3819, Rep. Waldrop). This joint resolution seeks to amend the Constitution so as to reduce the authorized bonded indebtedness of a school district from 8 percent to 4 percent of the assessed value of all taxable property in the district. The bill also states that if a school district's bonded indebtedness exceeds the 4 percent limitation on the effective date of ratification of this measure, the excess could continue until the bonds then in existence have been retired. If the General Assembly approves this joint resolution, it would be submitted as a constitutional amendment to the voters at the next general election.

Settlement of Catawba Indian Claim Settlements (H. 3821, Rep. Kirsh). This is a "skeleton bill" designed to implement the recently-announced settlement of land claims made by the Catawba Indians in York County. The settlement stems from a claim made by the Indians that their land had been taken many years ago without congressional approval. Under the settlement, \$50 million will be placed in a trust fund to benefit the Indians. Payment of the

settlement will be over a 5-year period, with the state paying 25 percent (\$12.5 million) and the federal government paying 60 percent (\$30 million). The remaining 15 percent, or \$7.5 million will be paid by York and Lancaster Counties and the private sector.

Fees Allowed Industrial Development Projects (H. 3828, Rep. Wilkins). This bill revises the manner in which and conditions under which fees may be paid in lieu of taxes for certain industrial development projects.

Payment of Corporate License Fees (H. 3830, Rep. Kirsh). This bill deletes obsolete references pertaining to payment of corporate license fees and taxes by utilities and electric cooperatives. Additionally, the bill requires the Secretary of State, when collecting the minimum corporate license fee imposed upon filing of articles of incorporation or upon application by a foreign corporation for a certificate of authority to do business in the state, to remit the proceeds to the State Treasurer, for use of the State. Currently these proceeds are remitted by the Secretary of State to the State Tax Commission.

Without Reference

Licensing and Regulation of Farm Trucks (H. 3788, Rep. Phillips). This bill is designed to update highway laws so as to allow modern and more efficient agricultural equipment to operate safely on the state's highways and roads. Under this bill, the definition of "farm truck" is amended and fees for farm vehicle licenses, which allow farmers to operate farm trucks, are revised. The bill also states farm implements, as pertains to the exemption of certain vehicles from weight laws, cannot exceed 16 feet in width when being moved on public highways, and that movement of farm implements is restricted to a 20-mile radius of the farm operation center and a maximum speed of 20 MPH. A requirement pertaining to the posting of a farm vehicle's empty weight is listed, and permits allowing cotton modular vehicles to travel on public highways would be issued annually and would allow movement on the highways at any time. The bill amends current law governing movement of cotton modular vehicles so as to allow a longer vehicle to move on highways and prohibits loaded cotton modular vehicles from operating on interstate highways. Current laws governing brakes would not apply to farm trailers of 8,000, as currently opposed to 12,000, pounds or less gross weight, but these trailers would not be allowed to exceed 20 MPH. The bill also amends current law governing transport of farm trailers exceeding 8,000 pounds. Finally, conditions are listed under which 2 small tobacco trailers may be pulled in tandem, and requirements for attaching these trailers to other vehicles for movement are posted.

(H. 3788 received final House approval on Thursday, April 1 and has been sent to the Senate for consideration.)

Legislative Receipt of Benefits From State Judicial Retirement System (H. 3801, Rep. Hodges). This bill would allow a person receiving retirement benefits under the South Carolina Retirement System for Judges and Solicitors to continue receiving these benefits if elected to the General Assembly. A legislator serving under these circumstances could continue to receive these benefits by filing a statement with the Budget and Control Board indicating the member will not participate in the General Assembly retirement system. Under these provisions, the person would make no contributions to the General Assembly's retirement fund, the state would make no contributions to the fund on his behalf, and the person would not be entitled to receive legislative retirement benefits after leaving the General Assembly. These provisions would apply to all eligible members of the General Assembly serving after April 28, 1985.

Exit Exam Exemption (H. 3808, Rep. Huff). State law requires a high school student to pass an exit exam as a condition for receiving a diploma. This bill would require the State Department of Education to develop an alternative assessment mechanism to the written portion of the exit exam for students whose second language is English. This mechanism must be developed by September 1, 1993. Until this alternative is developed, the requirement that one pass the written portion of the exit exam as a condition for receiving the diploma is waived for these students provided that are otherwise qualified to receive the diploma.

Hearing on and Approval of Conservation Easements (S. 550, Sen. Stilwell). This bill states that when the Advisory Board of the Heritage Trust Program conducts a public hearing on a conservation easement which a governmental body wishes to convey, the board's public hearing may be conducted by one or more of the board's members or staff, with the staff member(s) designated by the board's chairperson. The persons conducting the hearing would submit promptly to each member of the board a written summary of testimony, public comment and other information presented at the hearing. The bill also states that the board's approval or disapproval of the easement proposal may be indicated at a meeting of the board or by written ballot of the individual members.

Summary---House Appropriations Bill

Below is listed some of the highlights of H. 3610, the general appropriations bill, which was given 3rd reading by the House on Thursday, March 25 and has been sent to the Senate for consideration. General Fund Appropriations for various state agencies and departments are listed below. Please note that the figures below include only the general fund appropriation for each agency or department and do not include other funding each agency or department may receive, such as fees, federal funds, etc. The budget was adopted to conform with the restructuring bill passed by the House last month. This information is based on a report released by the House Ways and Means Committee last Thursday. The percentage of the general fund appropriations allotted to each category is listed beside the appropriated amount.

Total General Fund Appropriations: \$3,730,191,398
(Fiscal Year 1993-1994)

By Category:

Public Education (K-12)	\$1,215,485,607	(32.6%)
Higher Education	553,477,276	(14.8%)
Dept. of Rehabilitation and Corrections	257,754,592	(6.9%)
Aid to Localities	243,997,764	(6.5%)
Dept. of Health and Human Services	239,651,365	(6.4%)
Dept. of Mental Health	173,924,636	(4.7%)
Debt Service	138,739,504	(3.7%)
Budget and Control Board	125,937,583	(3.4%)
Dept. of Family Services	112,698,638	(3.0%)
Dept. of Disabilities & Special Needs	101,563,283	(2.7%)
Dept. of Law Enforcement	82,894,527	(2.2%)
Dept. of Health	80,974,226	(2.2%)
Dept. of Revenue	70,113,243	(1.9%)
Clemson Public Service Agency	42,815,279	(1.1%)
Dept. of Natural Resources	40,867,752	(1.1%)
Dept. of Tourism, Recreation and Cultural Affairs	28,973,803	(0.8%)
Judicial Branch	28,155,155	(0.8%)

Legislative Dept.	24,315,021	(0.7%)
Dept. of Environmental Regulation	18,805,568	(0.5%)
Educational Television	17,421,813	(0.5%)
Office of Governor	17,029,680	(0.5%)
Vocational Rehabilitation	14,484,196	(0.4%)
Dept. of Commerce	11,295,260	(0.3%)
School for Deaf and Blind	10,055,766	(0.3%)
Other*	78,759,861	(2.1%)

(*Includes Funding for Other State Agencies and Departments---Adjutant General, Attorney General, Public Service Commission, Dept. of Licensing and Regulation, etc.)

The budget as passed by the House is based on a revenue projection for Fiscal Year 1993-1994 of \$3.76 billion, an increase of almost \$200 million from the FY 1992-1993 projection of \$3.57 billion. When adjustments are made for nonrecurring revenues and other factors, the proposed FY 1993-1994 budget anticipates a 4 percent growth in revenue over FY 1992-1993. This projected growth rate, however, falls well below the revenue growth needed to meet the basic demands of South Carolina's present system of government, and economists are predicting revenue growth to be only about 3 percent a year for the foreseeable future. Given these factors and the prospect of restructuring, the House Ways and Means Committee is seeking to institute budget reform so as to streamline government and make it more efficient and accountable. As examples, the committee is looking at ways to shift more resources to prevention and intervention programs so as to reduce or contain the demand for government services and also at ways to inject competition into government services.

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